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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,060	07/25/2003	Jerome Glasser	JG9AT09A03US	2213
40232	7590	09/27/2005	EXAMINER	
JEROME GLASSER 16 SUNSET TERRACE MAPLEWOOD, NJ 07040			PASCUA, JES F	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,060

Applicant(s)

GLASSER, JEROME

Examiner

Jes F. Pascua

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/24/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the channel engineered from a different material (claims 25 and 31), material being a combination of plastic and fabric (claims 26 and 32), the belt loops (claims 26 and 32), the rigid planar material (claim 27), "heat sealing" (claim 34), "stapling" (claim 35) the animal skin material (claim 36) and the reinforced aperture of the grippable elements (claim 39) must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Applicant is advised that should claims 22-26 be found allowable, claims 28-32 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 23-32 and 35-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Applicant's specification, as originally filed, lacks antecedent basis for: "a conventional shoelace", "a tunnel-like channel...engineered from a different material", "a strip of leather", "belt loops", the

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material being "rubber or a rubberized fabric", the means for configuring being "stapling", "a rubber-type band", the material being an "animal skin", "said means for configuring...is hand stitching", "a ribbon type band", the first and second grippable elements being "integrally made from said material", the grippable elements being made from "metal", the cord-like element being "fabricated of a pliable synthetic or natural material" and the aperture of the grippable elements being "reinforced". This is a new matter rejection. In response to this rejection, applicant should cancel the new matter from the claims or indicate where the subject matter can be found in the applicant's original written specification.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 22-26, 28-32 and 34-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 22-26 and 28-32, "said uniting means" lacks antecedence in the claim from which it depends.

In claim 23, the relationship and structural association between the "sonic welding" and the "sewing" in the claim from which claim 23 depends has not been clearly set forth.

In claim 23, the relationship and structural association between the "shoelace" and the "strong string" in the claim from claim 23 depends has not been clearly set forth.

In claim 24, the relationship and structural association between the "shoelace" and the "strong string" in claim 22 (from which claim 23 indirectly depends) has not been clearly set forth.

In claim 25, the relationship and structural association between the "shoelace" and the "strong string" in claim 22 (from which claim 23 indirectly depends) has not been clearly set forth.

In claim 26, the relationship and structural association between the "gluing" and the "sonic welding" in claim 25 (from which claim 26 depends) has not been clearly set forth.

In claim 26, the relationship and structural association between the "gluing" and the "sewing" in claim 22 (from which claim 26 indirectly depends) has not been clearly set forth.

In claim 26, the relationship and structural association between the "strip of leather" and the "shoelace" in claim 25 (from which claim 25 depends) has not been clearly set forth.

In claim 26, the relationship and structural association between the "strip of leather" and the "strong string" in claim 22 (from which claim 26 indirectly depends) has not been clearly set forth.

In claim 26, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

In claim 29, the relationship and structural association between the "sonic welding" and the "sewing" in claim 28 (from which claim 29 depends) has not been clearly set forth.

In claim 29, the relationship and structural association between the "shoelace" and the "strong string" in claim 28 (from which claim 29 depends) has not been clearly set forth.

In claim 30, the relationship and structural association between the "sonic welding" and the "sewing" in claim 28 (from which claim 30 indirectly depends) has not been clearly set forth.

In claim 29, the relationship and structural association between the "shoelace" and the "strong string" in claim 28 (from which claim 29 indirectly depends) has not been clearly set forth.

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In claim 31, the relationship and structural association between the "sonic welding" and the "sewing" in claim 28 (from which claim 31 indirectly depends) has not been clearly set forth.

In claim 31, the relationship and structural association between the "shoelace" and the "strong string" in claim 28 (from which claim 31 indirectly depends) has not been clearly set forth.

In claim 32, the relationship and structural association between the "gluing" and the "sonic welding" in claim 31 (from which claim 32 depends) has not been clearly set forth.

In claim 32, the relationship and structural association between the "gluing" and the "sewing" in claim 28 (from which claim 32 indirectly depends) has not been clearly set forth.

In claim 32, the relationship and structural association between the "strip of leather" and the "shoelace" in claim 31 (from which claim 32 depends) has not been clearly set forth.

In claim 32, the relationship and structural association between the “strip of leather” and the “strong string” in claim 28 (from which claim 32 indirectly depends) has not been clearly set forth.

In claim 32, the phrase “such as” renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

In claims 34-36, the structure of the “cord” has not been defined to warrant the language “the two ends of the cord”.

In claim 35, the relationship and structural association between the “stapling” and the “heat sealing” in claim 34 (from which claim 35 depends) has not been clearly set forth.

In claim 35, the relationship and structural association between the “rubber-type band” and the “cord” in claim 34 (from which claim 35 depends) has not been clearly set forth.

In claim 36, the relationship and structural association between the “hand stitching” and the “stapling” in claim 35 (from which claim 36 depends) has not been clearly set forth.

In claim 36, the relationship and structural association between the "hand stitching" and the "heat sealing" in claim 34 (from which claim 36 indirectly depends) has not been clearly set forth.

In claim 36, the relationship and structural association between the "rubber-type band" and the "cord" in claim 34 (from which claim 36 indirectly depends) has not been clearly set forth.

In claim 36, lines 8 and 14, "lest" should be changed to --least--.

In claim 39 it is unclear how the grippable elements can be made of metal yet be "integrally made from said material" as set forth in claim 38 (from which claim 39 depends).

Claims that have not been specifically mentioned are rejected since they depend from claims rejected under 35 U.S.C. § 112, second paragraph.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 20, 33 and 40 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 291,447 to Wheeler.

9. Claims 20, 33 and 40 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 731,378 to Luther.

10. Claims 20, 21, 28, 33, 39 and 40 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 2,635,664 to Cohen.

11. Claims 20, 21, 28, 33, 39 and 40 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 2,197,977 to Halpin.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 20-37 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,197,977 to Halpin.

Halpin discloses the claimed invention except for the walls 12 of the container being formed by folding material upon itself. It would have been an obvious matter of design choice to form the container of Halpin by folding material upon itself, since

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applicant has not disclosed that forming a container by folding the material upon itself solves any stated problem or is for any particular purpose and it appears that the Halpin invention would perform equally well being formed by folding the material upon itself.

Halpin discloses the claimed invention except for the material of the walls 12 being fabric, plastic sheeting, a combination of both, rigid, rubber, rubberized fabric or animal skin. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use fabric, plastic sheeting, a combination of both, rigid, rubber, rubberized fabric or animal skin for the material of the Halpin, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Halpin discloses the claimed invention except for the drawstring 20 being a strong string, a shoelace or a strip of leather. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a strong string, a shoelace or a strip of leather for the drawstring of Halpin, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Halpin discloses the claimed invention except for seam 13 being formed by sonic welding, gluing heat sealing or stapling instead of stitching and sewing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use sonic welding, gluing heat sealing or stapling since the Examiner takes Official

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Notice of the equivalence of sonic welding, gluing, heat sealing or stapling and stitching or sewing for their use in the container art and the selection of any of these known equivalents to unite the material forming the container of Halpin would be within the level of ordinary skill in the art.

Halpin discloses the claimed invention except for the hem 15 being made from a different material attached to the walls 12. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the hem of Halpin by attaching a different material to the walls, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Halpin discloses the claimed invention except for the drawstring slidably extending through plurality of loops instead of hem 15. It would have been obvious to one having ordinary skill in the art at the time the invention was made to loops instead of a hem to slidably receive the drawstring of Halpin since the Examiner takes Official Notice of the equivalence of loops and hems for their use in the container art and the selection of any of these known equivalents to slidably receive the drawstring of Halpin would be within the level of ordinary skill in the art.

Allowable Subject Matter

14. Claims 38 and 39 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, 1st and 2nd paragraphs, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

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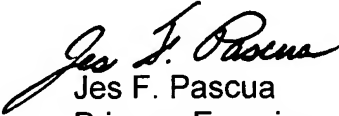
Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jes F. Pascua
Primary Examiner
Art Unit 3727

JFP